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/Joseph G. Swan/
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PATENT
Atty. Docket No. 35512-33

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

G. MICHAEL PHILLIPS, ET AL.

Application No.: 09/615,021

Filed: July 13, 2000

For: SENSITIVITY/ELASTICITY-BASED ASSET
EVALUATION AND SCREENING

Group Art Unit: 3695

Examiner: Subramanian, Narayanswamy

Conf. No.: 3965

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705

Applicants respectfully request adjustment of the patent term extension that is indicated in the Determination of Patent Term Adjustment dated February 2, 2009. This submission is being made concurrently with payment of the issue fee, after the mailing of the Notice of Allowance in this case. The \$200.00 fee required under 37 CFR § 1.18(e) is being submitted herewith. This request is being made on the following two grounds.

First, under 37 CFR § 1.702(a)(2), “the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to . . . Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after

the date on which the reply was filed or the appeal was taken.” Similarly, 37 CFR § 1.703(a)(3) states that, “The period of adjustment under § 1.702(a) is the sum of the following . . . The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed [which includes “appeal from the rejection of, each rejected claim”] and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.”

In the present case, an Appeal Brief was filed January 20, 2006, and the next response from the USPTO (a Notification of Noncompliant Appeal Brief) was not mailed until June 5, 2007, after Applicants filed a Status Request on February 20, 2007. The delay beyond the permitted four months apparently was not included in the calculation of the patent term adjustment for the present application. Accordingly, an additional adjustment of 381 days is respectfully requested.

Second, Applicants request reinstatement of that portion of the term reduction pursuant to 37 CFR § 1.704(b) in the amount of 62 days, based on Applicants’ filing of a Supplemental Appeal Brief on September 5, 2007. In this regard, 37 CFR § 1.704(c)(8) excludes from actions for which a reduction may be assessed, “Submission of . . . a supplemental reply or other paper expressly requested by the examiner.”

In the present case, the Supplemental Appeal Brief was filed on September 5, 2007, in response to the Examiner’s express request. Specifically, the Examiner’s request to modify the Appeal Brief was made in a telephone call to Applicants’ attorney on August 20, 2007, and subsequently was documented in the Interview Summary mailed by the Examiner on August 27, 2007. Accordingly, Applicants respectfully request reinstatement of these 62 days.

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In view of the foregoing considerations, Applicants respectfully request an increase of $381 + 62 = 443$ days in the term adjustment set forth in the Determination of Patent Term Adjustment dated February 2, 2009, i.e., to a total patent term adjustment of $1513 + 443 = 1956$ days.

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the present application, as set forth in 37 CFR § 1.704. The patent that will issue from this application is not subject to a terminal disclaimer.

If there are any fees due in connection with the filing of the currently submitted papers that have not been accounted for in this paper or the accompanying papers, please charge the fees to our Deposit Account No. 502490. If an extension of time under 37 C.F.R. § 1.136 is required for the filing of the currently submitted papers and is not accounted for in this paper or the accompanying papers, such an extension is requested and the fee (or any underpayment thereof) should also be charged to our Deposit Account.

Dated: February 11, 2009

Respectfully submitted,
JOSEPH G. SWAN, P.C.

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